IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11372 of 2007(D)

PETITIONER:

P.P.ABDUL GAFOOR, SAGAR AGENCIES,
H.O.MELADI, BRANCH ELATHUR, CALICUT.

BY ADV. SRI.RAJESH CHAKYAT
SRI.JAIRAM.V.MENON

RESPONDENTS:
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1. **THE COMMERCIAL TAX OFFICER,**
   KOYILANDY, KOZHIKODE DISTRICT.

2. **THE DEPUTY COMMISSIONER (APPEALS)**
   COMMERCIAL TAXES, KOZHIKODE.

3. **SALE TAX OFFICER (RECOVERY),**
   O/O DEPUTY COMMISSIONER,
   COMMERCIAL TAX DEPARTMENT,
   KOZHIKODE.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.11372/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ASSESSMENT ORDER DT.30.10.06.

EXT.P2:- COPY OF THE APPEAL PETITION.

EXT.P3:- COPY OF THE STAY PETITION.

EXT.P4:- COPY OF THE EARLY POSTING PETITION .

EXT.P5:- COPY OF THE RR NOTICE DT. 21.2.07.

EXT.P6:- COPY OF THE ORDER DT.21.3.07.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 11372 OF 2007-D

JUDGMENT

The petitioner challenges Ext.P6 order. The main ground of attack against the said order is that none of the grounds raised in the appeal was considered by the appellate authority while disposing of the stay application filed along with STA No.1105/2006, in which the assessment for the year 2004-05 is under challenge. The learned counsel for the petitioner took me through Ext.P2 appeal memorandum and the grounds raised therein. Going by the grounds, I feel that all those grounds fall within the realm of disputed questions of fact, which have to be heard and decided by the appellate authority. Pending decision, the petitioner was granted stay on payment of 50% of the amount. I feel that it is a just and proper order on the facts of the case. But, the learned counsel for the petitioner prays for some time to pay the amount due under Ext.P6.

2. I heard the learned Government Pleader on this point raised. The petitioner may pay 25% of the balance tax on or before 16.4.2007 and the balance 25% on or before 30.4.2007. He may furnish security for the

balance amount on or before 30.4.2007.

The Writ Petition is disposed of as above.

2nd April, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/